

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Local Telephone Competition and)	WC Docket No. 04-141
Broadband Reporting)	
)	

COMMENTS OF AT&T CORP.

AT&T Corp. (“AT&T”) submits these comments in response to the Commission’s Notice of Proposed Rulemaking (“*Notice*”), released April 16, 2004 in the above-captioned proceeding.

INTRODUCTION

In March 2000, the Commission instituted mandatory data reporting rules that require carriers to collect and report data relating to the development and deployment of local telephone and broadband services.¹ In the intervening four years, AT&T has developed software, implemented processes, and trained personnel to gather the information necessary to meet these reporting requirements. In addition, AT&T has spent thousands of hours collecting, analyzing, and validating its data to comply with these obligations.

The Commission now proposes to extend these reporting requirements for an additional five years and to expand these requirements significantly. AT&T believes that

¹ *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order, 15 FCC Rcd. 7717 (2000) (“*Data Gathering Order*”). The data is reported by carriers in FCC Form 477 (“Form 477”).

the data currently supplied by carriers in Form 477 provides the Commission with more than sufficient information to monitor local telephone competition and broadband deployment. Thus, the additional reporting requirement proposed in the *Notice* would provide little appreciable benefit, but would significantly increase the burdens already imposed on AT&T and other carriers. Moreover, the cost of complying with more detailed requirements rises exponentially, not incrementally. AT&T and other carriers would be required to develop new reporting systems and procedures that are not otherwise used in the normal course of business, and would have to divert resources away from obtaining and serving customers in order to comply. Indeed, this is a particularly problematic time to impose additional administrative requirements on competitive local exchange carriers (“CLECs”) given the difficult situation they now face as a result of the *vacatur* of the Commission’s unbundling rules. The Commission therefore should not expand the reporting requirements beyond what is currently required.

AT&T provides the following comments on certain of the Commission’s proposals.

I. PROPOSED CHANGES TO BROADBAND REPORTING REQUIREMENTS

The *Notice* proposes significant changes in both the reporting thresholds and the type of information that carriers would have to report regarding deployment of broadband services. Several of the proposed requirements, as described below, would impose severe burdens on AT&T and other carriers, and some – such as the proposal to report the observable information transfer rate of broadband services – are simply unworkable. The Commission should not adopt these proposals.

The *Notice* proposes that where providers offer services that have information transfer rates exceeding 200 Kbps in both directions the provider must break out such services into five separate tiers based on the following transfer rates in the faster direction: (a) >200 Kbps and < 2.5 Mbps; (b) • 2.5 Mbps and < 10 Mbps; (c) • 10 Mbps and < 25 Mbps; (d) • 25 Mbps and < 100 Mbps; and (e) • 100 Mbps. From AT&T's perspective, the proposed break points – other than the < 2.5Mbps and • 2.5 Mbps breakpoints – do not appear to be related to any services presently offered to residential and small business customers, and filers should not have to break out high-speed connections by numerous speed tiers. Moreover, in light of the fact that many cable companies have begun to offer their customers download speeds of up to 3 Mbps, the appropriate breakpoints should probably be < 3 Mbps and • 3 Mbps.

Proposed Section I.B of Form 477 requires filers that report xDSL (asymmetric or symmetric) connections in Part I.A and filers that report cable modem connections in Part I.A to report their best estimate of the percentage of mass-market end user premises in their service area, by state, to which broadband lines were available over their own local loop facilities. Literally applied, this wording would require all filers reporting DSL and cable modem connections in Part I.A to complete Part I.B even if the filer did not own the local loop facility. If the modified Form 477 is adopted, the instructions should be revised to require only filers reporting DSL and cable modem line counts over their own facilities to complete Part I.B.²

² For clarity, AT&T suggests that the instructions to Part I.B (p. 6) be revised to state “Filers that report a non-zero value in Column (c) of Line A.I-1, Line A.I-2, or Line A.I-4 must also complete Part I.B.”

In Part I.V of the proposed Form 477, the Commission proposes that providers report by zip code whether they are providing connection to the Internet via seven different technological categories. Rather than have providers report a variety of connections based on technology and/or speed tiers, the Commission should require filers simply to provide a list of zip codes in which they have at least one business customer and another list of zip codes in which they have at least one residential customer. The Commission also asks (*Notice* ¶ 9) whether it should require, for each zip code, that the provider report the number of high-speed connections by technology and by speed tiers. As stated above, AT&T does not believe that providers should be required to break out high-speed connections by a multitude of speed tiers. Moreover, reporting the number of high-speed lines by technology and speed tier in each zip code would require the development of new processes, and an exponential increase in the reporting burden on beleaguered CLECs. The Commission therefore should not adopt this approach. Instead, filers should be required to report only how many high-speed connections they have in a given state, without any further breakout by technology, speed tier, or zip code.³

The Commission also asks whether it should modify the reporting obligation “to require filers to categorize broadband connections according to the information transfer rates actually observed by end users.” *Notice* ¶ 7. AT&T submits that this proposal is unworkable and should not be adopted. For shared networks, such as cable, the information transfer rate will vary from moment to moment depending on how many

³ If, nevertheless, the Commission decides to implement such technology and speed tier breakouts by zip code, such a further breakout of the existing reporting requirement would provide even more competitively sensitive information to entrenched competitors if made publicly available. Submission of such information would thus further justify the Commission decision “not . . . to change existing policy regarding the overall protection” afforded Form 477 information. *Notice* ¶ 12.

customers are on the network at any given time and what demands each is imposing on the shared network. For DSL, the information transfer rate will depend on numerous variables, including how far the individual premise is from the central office or remote terminal,⁴ the number of bridged taps on the loop, and the overall condition of each individual loop. Indeed, the information transfer rate will also depend on the current load on an ISP's server and backbone network. Moreover, AT&T does not capture such information today for residential and small business customers.⁵ Although AT&T's network operations centers routinely detect problems with the overall network, individual residential and small business customers generally provide the first indication that their individual service appears to have slowed down. For these reasons, AT&T submits that the Commission should not adopt this proposal.

II. PROPOSED CHANGES TO LOCAL COMPETITION REPORTING REQUIREMENTS

The proposed Form 477 would require filers to report, for voice telephone service provided to end users, the percentage of lines for which the filer is the default interstate long distance carrier. Part II, columns (b) and (d). The Commission also proposes to require filers to identify separately the percentage of lines provided over UNE loops and over the UNE-Platform, as well as the percentage of total lines provided by reselling another carrier's retail service. Part II, columns (f), (g), and (h). Obtaining this information for all local services that AT&T provides would require systems development, and until such systems are developed and implemented, the information

⁴ All other factors being equal, shorter loops, *i.e.*, those associated with premises located closer to the central office or the remote terminal, have greater bandwidth capabilities than longer loops.

⁵ AT&T may capture such information for large business customers who contract with AT&T for managed services that provide for performance monitoring and reporting.

would have to be pulled manually. For this reason, among others, AT&T recommends that the Commission provide a six-month implementation period for any new reporting requirements that may be imposed as a result of this proceeding. Such a period would allow filers the time necessary to develop systems, implement processes, and train the personnel required to provide the additional information the Commission requires, without incurring the additional expense and impact on competitive operations that would result from having to do so on a “crisis” basis.⁶

III. DURATION OF THE EXTENSION

The *Notice* proposes to extend the Form 477 reporting requirements, including any modifications thereto, for an additional five years, *i.e.*, until March 2010. In light of the extensive changes that are taking place in the communications industry, AT&T submits that the Commission should consider a significantly shorter extension of no more than three years. At that time, the Commission could determine whether continuation of the reporting program makes sense based on then-existing market conditions.

IV. CONFIDENTIALITY CONSIDERATIONS

The *Notice* does not propose to change the Commission’s existing policy regarding the confidential protection it affords to filed information. Today, filers are permitted to submit Form 477 data under a claim of confidentiality and the Commission will treat such information as confidential pending a Freedom of Information Act (“FOIA”) request. *Notice* ¶ 12, n.25. Should the Commission receive a FOIA request,

⁶ AT&T submits that filers with exceptional circumstances should be permitted to seek an additional extension of the effective date of such modifications of the reporting requirements.

the filer would be given the opportunity to justify continued confidential treatment of the submitted information. *Id.*

The Commission asks, however, whether it can release historical aggregated information that it has masked from public disclosure in prior reports (by substituting an asterisk for the data), suggesting that such aggregate data may no longer be competitively sensitive after a year or two. *Notice* ¶ 12. AT&T believes the Commission should not adopt such an approach. The Commission currently masks or withholds such data “to maintain firm confidentiality,”⁷ *i.e.*, so that competitors cannot “back out” the filer’s data. Releasing such data to the public, including the filer’s competitors, one or two years later would still enable competitors to back out recent competitive information and to discern the filer’s competitive strategy and position. Furthermore, by the time such data were stale enough not to be competitively sensitive, public disclosure of such data would serve no useful purpose. The Commission accordingly should refrain from adopting such an approach.

CONCLUSION

AT&T believes that the information currently reported by competitive providers meets the Commission’s needs and that the Commission should not impose additional burdens on CLECs. Furthermore, certain of the proposed reporting requirements -- *e.g.*, the observable information transfer rate requirement – should not be adopted at all for the reasons set forth herein. In all events, the Commission should provide filers at least six months to implement any changes in reporting requirements that result from this

⁷ See, *e.g.*, Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau, *High-Speed Services for Internet Access: Status as of December 31, 2003* (June 2004) Tables 5-11.

proceeding. Finally, the Commission should continue its confidential treatment of filed information, including historical data.

Respectfully submitted,

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